

**Rule 354. Computation of Time****Rule 354.01 Generally**

The following rules apply in computing any time period specified in these rules, in any local rule or court order, or in any statute that does not specify a method of computing time.

**(a) Period Stated in Days or a Longer Unit of Time.** When the period is stated in days or a longer unit of time:

- (1) exclude the day of the event that triggers the period;
- (2) count every day, including intermediate Saturdays, Sundays, and legal holidays; and
- (3) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

**(b) Periods Shorter than 7 Days.** Only if expressly so provided by any other rule or statute, a time period that is less than 7 days may exclude intermediate Saturdays, Sundays, and legal holidays. Otherwise, all time period include Saturdays, Sundays, and legal holidays.

**(c) Period Stated in Hours.** When the period is stated in hours:

- (1) begin counting immediately on the occurrence of the event that triggers the period;
- (2) count every hour, including hours occurring during intermediate Saturdays, Sundays, and legal holidays; and
- (3) if the period would end on a Saturday, Sunday, or legal holiday, the period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

**(d) Inaccessibility of the Court Administrator's Office.** Unless the court orders otherwise, if the court administrator's office is inaccessible:

- (1) on the last day for filing or service under Rule 354.01(a) and (b), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or
- (2) during the last hour for filing under Rule 354.01(b) and (c), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

**(e) "Last Day" Defined.** Unless a different time is set by a statute, local rule, or court order, the last day ends:

- (1) for electronic filing, at 11:59 p.m. local Minnesota time; and
- (2) for filing by other means, when the Court Administrator's office is scheduled to close.

**(f) "Next Day" Defined.** The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(Amended effective July 1, 2015; amended effective January 1, 2020.)

**Rule 354.02 Definition of a Legal Holiday**

As used in these rules, "legal holiday" includes any holiday designated in Minnesota Statutes, section 645.44, subdivision 5, as a holiday for the state or any state-wide branch of government and any day that the United States Mail does not operate.

(Amended effective July 1, 2015; amended effective January 1, 2020.)

**Rule 354.03 Additional Time After Service by Mail or Service Late in Day**

Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other document upon the party, and the notice or document is served upon the party by United States Mail, 3 days shall be added to the prescribed period.

If service is made by any means other than United States Mail and accomplished after 5:00 p.m. local Minnesota time on the day of service, 1 additional day shall be added to the prescribed period.

(Amended effective June 1, 2009; amended effective July 1, 2015; amended effective January 1, 2020.)

***Advisory Committee Comment***

***State-Level Judicial-Branch Holidays.*** The legal holidays listed in Rule 354.03 are based upon Minnesota Statutes 2000, section 645.44, subdivision 5, which defines state-level judicial-branch holidays. The statute further provides that when New Year's Day (January 1), Independence Day (July 4), Veteran's Day (November 11), or Christmas Day (December 25) falls on a Sunday, the following day (Monday) shall be a holiday, and that when New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on a Saturday, the preceding day (Friday) shall be a holiday. Minnesota Statutes, section 645.44, subdivision 5, also authorizes the judicial branch to designate certain other days as holidays. The Judicial Branch Personnel Plan designates the Friday after Thanksgiving as a holiday.

***County Holidays.*** Counties are authorized to close county offices on certain days under Minnesota Statutes 2000, section 373.052. Thus, if a county closes its offices under Minnesota Statutes, section 373.052, on a day that is not a state-level judicial-branch holiday, such as Christopher Columbus Day (the second Monday in October), the court in that county would nevertheless include that day as a holiday for the purpose of computing time under Rule 354.03. See *Mittelstadt v. Breider*, 286 Minn. 211, 212, 175 N.W.2d 191, 192 (1970) (applying Minnesota Statutes, section 373.052, to filing of notice of election contest with district court). If a county does not close its offices on a day that is a state-level judicial-branch holiday, such as the Friday after Thanksgiving, the court in that county must still include that day as a holiday for the purpose of computing time under Rule 354.03.

***Advisory Committee Comment - 2008 Amendment***

In 2006 the Minnesota Supreme Court addressed the ambiguity in the rules and the ambiguity between the rules and statutes over how Columbus Day should be treated. Columbus Day is only optionally a state holiday (by statute the different branches can elect to treat it as a holiday) but is uniformly a federal and U.S. mail holiday. Because the rules generally allow service by mail, the Court in *Commandeur LLC v. Howard Hartry, Inc.*, 724 N.W.2d 508 (Minn. 2006), ruled that where the last day of a time period occurred on Columbus Day, service by mail permitted by the rules was timely if mailed on the following day on which mail service was available. The amendment to Rule 354.03 makes it clear that Columbus Day is a "legal holiday" for all purposes in these

rules, even if that is not necessarily so by the statutory definition. Minnesota Statutes 2008, section 645.44, subdivision 5.

***Advisory Committee Comment - 2019 Amendments***

*This amended Rule 354 is drawn directly to Rule 6.01 as amended as part of the extensive revamping of the timing rules for all civil matters. These amendments implement the adoption of a standard "day" for counting deadlines under the rules - counting all days regardless of the length of the period and standardizing the time periods, where practicable, to a 7-, 14-, 21-, or 28-day schedule. The most important establishes "a day is a day" - all days during a period under the rules, regardless of length, are included, including weekends and legal holidays. This change mirrors a set of changes made in the Federal Rules of Civil Procedure, and is intended to create substantial similarity between "state days" and "federal days." The amended rule also adopts the same definition of "legal holidays" as used in Minn. R. Civ. P. 6.*

*Rule 354.01(f) is an important provision that will affect many deadlines. It establishes an explicit rule for how days are counted when counting "backwards" from a deadline. The rule requires that, when counting backwards from an event, and the last day falls on a weekend or holiday, the counting continues to the next earlier date that is not a weekend or holiday. This rule is modeled on its federal counterpart and is intended to create greater uniformity in timing between all state and federal court matters.*